

# DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548

FILE: B-224344

DATE: July 7, 1986

MATTER OF: Gracon Corporation

## DIGEST:

Failure of offeror for a construction contract to certify itself as a small business and to include other standard certifications in its bid is a minor informality which the contracting officer may either waive or allow the offeror an opportunity to correct.

Gracon Corporation (Gracon) protests the possible award of a contract to D.L. Norton General Construction, Inc. (Norton) under invitation for bids (IFB) No. GRCA-871, issued by the National Park Service, Department of the Interior for the procurement of construction services. Gracon indicates that the procurement was set-aside for small business concerns and complains that Norton's bid was nonresponsive because it failed to include a certification of small business status. Gracon contends that Norton also failed to complete and submit other certifications contained in the IFB.



We have consistently treated a bidder's failure to certify its small business size status as a minor informality since the bidder's size status is not necessary to determine whether the bid meets the IFB's material requirements, and, therefore, does not affect the responsiveness of the bid. See Extinguisher Serv., Inc., B-214354, June 14, 1984, 84-1 CPD ¶ 629. The contracting officer either must waive such an informality or give the bidder an opportunity to correct it. See Neal R. Gross & Co., B-217508, Apr. 2, 1985, 85-1 CPD ¶ 382.

Gracon argues that Norton gained an unfair competitive advantage by failing to include its small business certification. Gracon contends that Norton could make itself ineligible for the set-aside award by withholding its certification as a small business if it determined after bid opening that an award was not advantageous to it.

There often exists some risk that a bidder can take steps after bid opening to render itself ineligibile for an award, e.g. by refusing to take actions necessary to demonstrate its responsibility, that is, its capability of complying with the solicitation's material terms. Nevertheless, it is well established that a bid must demonstrate only the bidder's compliance with the IFR's terms materially affecting price, quantity, quality and delivery to be responsive and acceptable, see Federal Acquisition Regulation, 48 C.F.R. § 14.405 (1984); the bidder's responsibility and compliance with other terms may be determined based on information submitted after bid opening. E.g., Devcon Sys. Corp., 59 Comp. Gen. 614 (1980), 80-2 CPD ¶ 46.

Finally, the failure to complete and submit the other standard certifications in the IFR also does not affect the bidder's material obligations and, therefore, also may be waived or corrected after bid opening. See Roy Bennett, R-219938, Dec. 20, 1985, 85-2 CPD ¶ 692. Thus, Norton's alleged failure to complete and submit the standard representations and certifications provides no basis to reject Norton's bid.

The protest is dismissed.

  
 Ronald Berger  
Deputy Associate  
General Counsel